

Exhibit D

Declaration of Eleanor Hamburger

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

N.C., individually and on behalf of A.C.,
a minor,

Plaintiffs,

v.

PREMERA BLUE CROSS,

Defendants.

NO. 2:21-cv-01257-JHC

**DECLARATION OF ELEANOR
HAMBURGER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEY FEES**

I, Eleanor Hamburger, declare:

1. I am the local attorney for Plaintiffs, over the age of 18 years, a member in good standing of the Washington State Bar, am competent to provide this testimony and I have personal knowledge of the matter of which I testify.

2. I am making this declaration in support of the Plaintiffs' request for an award of attorney fees in this case.

3. I received my J.D. in 1993 from the New York University School of Law where I was a Root-Tilden-Snow Scholar and have practiced law in Washington state for 27 years.

4. For over 25 years I have represented claimants in cases involving denied health, life, and disability benefits. My area of practice usually involves litigating ERISA cases.

1 5. I have represented ERISA participants at the federal district and circuit court levels
2 across the country for many years. Most of my work is provided on a contingent fee basis but I
3 also regularly represent individuals on an hourly basis.

4 6. When I represent new clients on an hourly basis I charge \$750 per hour for my
5 work and I regularly receive payment for my hourly work at that rate. In 2022, my then actual
6 billing rate of \$715 an hour was accepted when fees were approved in *N.R. v. Raytheon Co.*, No.
7 1:20-cv-10153-RGS (D. Mass.), *Reichert v. Keefe Commissary Network*, No. 3:17-cv-05848-
8 BHS (W.D. Wash.); *C.C. v. Baylor, Scott & White Health*, No. 4:18-cv-00828-SDJ (E.D. Tex.).

9 7. In 2021, I charged new clients at a rate of \$665 an hour, which was the rate
10 actually paid by multiple hourly clients and approved by several courts and at least one
11 arbitrator, including in individual cases. *See e.g., Camp v. Washington State Health Care*
12 *Authority*, No. 20-2-01813-34 (Thurston Cty. Sup. Ct.); *J.R. v. Blue Cross Blue Shield of*
13 *Illinois et al.*, No. 2:18-cv-01191-JLR (W.D. Wash.); *D.T. v. NECA-IBEW Family Medical Care*
14 *Plan*, No. 2:17-cv-00004-RAJ (W.D. Wash.).

15 8. I track the time for cases on which I work, including contingent fee cases.

16 9. A copy of the ledger for work I performed in this matter is attached as Exhibit 1.

17 10. ERISA is a complex statute that presents many obstacles and limitations to both
18 claimants and their counsel in obtaining positive results. Few attorneys who are knowledgeable
19 and competent work represent plaintiffs on a contingent fee basis.

20 11. Based on the fact that ERISA is a federal statute that applies with some consistency
21 in a wide variety of jurisdictions and based on my work in Washington and many other federal
22 courts, I charge and have received the same hourly rate fees to clients I represent across the
23 country.

24 12. Brian King and I have consulted with each other many times over the years on a
25 wide variety of ERISA cases involving denied mental health and substance use disorder claims.
26 We are each part of a small community of lawyers across the country who regularly represent

1 individuals and families in this area of law. In addition, I am familiar with his work and the results
2 he has obtained in many cases.

3 13. Mr. King has informed me that his hourly rate is \$600 when he bills on an hourly
4 rate. I believe a \$600 hourly rate is reasonable and well within the range of national market rates
5 for an excellent attorney representing plaintiffs in the challenging and formidable area of law that
6 is ERISA.

7 14. I am familiar with the hourly rates of attorneys of various levels of experience,
8 paralegals, and legal assistants across the country in this area of work. Based on national standards,
9 the nature of my practice and the specialized knowledge required to practice in this area of law, I
10 believe the hourly rates identified in this declaration for myself are reasonable for my work.

11 15. I am also familiar with the hourly rates charged by individuals in the Seattle area
12 who bill by the hour for commercial litigation and litigation involving issues of fact and law
13 dealing with claims involving breach of contract and violations of statute.

14 16. My total hours in this case are 8.9. Multiplied by my reasonable hourly rate of \$750,
15 the award of attorney fees I am requesting for my time is \$6,675.00.

16 17. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
17 is true and correct.

18 DATED this 7th day of June, 2023, at Seattle, Washington.

19
20 s/ Eleanor Hamburger

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Attorneys for Plaintiffs

EXHIBIT 1**N.C. v. Premera Blue Cross
SYSH FEES**

Date	Explanation	Hours	Rate
Jan 18/2022	Email with Brian King about [REDACTED]	0.10	\$750.00
Jan 18/2022	Review case files provided by Brian King; Email questions to Brian King	0.50	\$750.00
Jan 18/2022	Email with Brian King about [REDACTED]	0.30	\$750.00
Feb 7/2022	Review revised fee agreement	0.10	\$750.00
Feb 28/2022	Draft review and authorize filing of notice of appearance	0.40	\$750.00
Feb 28/2022	Review discovery to be served; email with staff	0.30	\$750.00
Apr 1/2022	Review draft motion to amend pleadings deadline; email with Brian King and staff	0.30	\$750.00
Apr 4/2022	Respond to question about [REDACTED]	0.10	\$750.00
Jun 1/2022	Review motion to amend scheduling order before filing and correspondence re: discovery dispute	0.20	\$750.00
Jul 5/2022	Review Answer to Complaint	0.50	\$750.00
Jul 7/2022	Email with co-counsel re: [REDACTED]	0.30	\$750.00
Jul 7/2022	Conduct legal research related to [REDACTED]; email [REDACTED] to co-counsel	0.60	\$750.00
Jul 7/2022	Edit motion for summary judgment; email to co-counsel	1.40	\$750.00
Jul 8/2022	Email with co-counsel re: [REDACTED]	0.10	\$750.00
Jul 25/2022	Review motion to amend briefing schedule	0.10	\$750.00
Aug 1/2022	Review response brief	0.40	\$750.00
Aug 26/2022	Email with co-counsel, clerk and opposing counsel about telephonic hearing	0.20	\$750.00
Aug 29/2022	Email with co-counsel about [REDACTED]	0.10	\$750.00
Aug 31/2022	Participate in telephonic hearing	0.50	\$750.00
Oct 20/2022	Email with co-counsel about [REDACTED]	0.10	\$750.00
Oct 24/2022	Participate in oral argument as local counsel	1.00	\$750.00
Mar 3/2023	Email with co-counsel about [REDACTED]	0.20	\$750.00
Mar 6/2023	Review supplemental briefing	0.40	\$750.00
Mar 31/2023	Review order; email with co-counsel	0.50	\$750.00
May 8/2023	Review proposed judgment	0.20	\$750.00
	TOTAL	8.90	\$6,675.00